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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

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12 CARL T. MADSEN, INC., d/b/a MADSEN
ELECTRIC, a Washington corporation,

13 Plaintiff,

14 v.

15 ABB, INC., a Delaware corporation; and
16 MWH CONSTRUCTORS, INC., a Delaware
corporation,

17 Defendants.
18

No. C 08-5596 KLS

ORDER DENYING MOTION TO
EXCLUDE EVIDENCE

19 Plaintiff, Carl T. Madsen, Inc. filed a Motion to Exclude Evidence of MWH's Delay Claim (Dkt.
20 60 - 63). MWH Constructors filed its Response (Dkt. 65 - 67) and the Plaintiff filed its Reply (Dkt. 68 -
21 71). The Plaintiff's request to exclude evidence is based on Fed. R. Civ. P. 37 (c).

22 A request to exclude evidence is one of the most extreme sanctions available to the Court and
23 should be granted only in appropriate cases. This is not one of those cases.

24 If, in fact, the Plaintiff is of the view that discovery has not been properly provided or that
25 interrogatories have not been properly answered the appropriate motion would be one to compel which
26 can only be scheduled after counsel have met and conferred. This is particularly true in light of the fact
27 that discovery cut-off is June 15, 2010. This motion to exclude evidence was filed 7 months prior to
28 discovery cut-off. There is ample time available for the issues raised to be resolved, either by agreement

1 or by motion before the court, prior to the discovery cut-off.

2 The Motion to Exclude Evidence (Dkt. 60) is DENIED.

3 DATED this 22nd day of January, 2010.

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5 Karen L. Strombom
6 United States Magistrate Judge